

WINSTON & STRAWN



407127

FREDERICK H. WINSTON (1853-1886)
SILAS H. STRAWN (1891-1946)

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601

(312) 558-5600

FACSIMILE (312) 558-5700

PHOENIX OFFICE
2300 GREAT AMERICAN TOWER
3200 NORTH CENTRAL AVENUE
PHOENIX, ARIZONA 85012
(602) 279-8500

WASHINGTON, D.C. OFFICE
2550 M STREET, N.W.
WASHINGTON, D.C. 20037
(202) 828-8400

WRITER'S DIRECT DIAL NUMBER

558-5957

May 23, 1989

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Edward J. Kowalski (5CS-TUB-3)
Assistant Regional Counsel
United States Environmental Protection Agency
Region V
111 West Jackson
Chicago, Illinois 60604

Re: Ninth Avenue Dump, Gary, Indiana
Our Client: Collis Inc.

Dear Mr. Kowalski:

We represent Collis Inc. ("Collis") in connection with this matter. Collis recently received a "Special Notice of Potential Liability" dated March 17, 1989 and addressed to "Collis Company, Clinton, IA." In addition, it is my understanding that USEPA has named "Collis," with no address, as a Respondent to an "Administrative Order Pursuant to Section 106" of CERCLA. Please be advised that Collis Inc. has never been served with or otherwise received a copy of this Order. I learned of Collis' status as a Respondent only through communications with other Respondents.

Although I have requested that the Agency provide me with copies of any documents or other evidence allegedly indicating that hazardous substances generated by Collis were treated or disposed of at the site, or transported there for treatment or disposal (see attached copy of letter to Ms. Alison Hiltner), the Agency has provided me with no such information.

The only "evidence" concerning Collis' alleged involvement at the site that has been brought to my attention is the deposition testimony of several former employees of U.S. Scrap, and the unsworn statement of Steve Martell. Martell claims, in his unsworn statement, that wastes generated at a Collis facility in Clinton, Iowa were disposed of at both the U.S. Scrap and Ninth Avenue sites from 1972-1975.

WINSTON & STRAWN

Mr. Edward J. Kowalski
May 23, 1989
Page Two

Collis Inc. is not liable for response costs incurred or to be incurred at either site because at the time of the alleged disposal, Collis Inc. was neither the owner nor operator of the Clinton, Iowa facility. At that time, the facility was owned and operated as the Clinton Wire Products Division of Chamberlain Manufacturing Corporation ("CMC"), an Iowa corporation.


In May of 1984, our client, Collis Inc., a Delaware corporation, acquired the assets of CMC's Clinton Wire Products Division, including the Clinton facility, and its Collis Tool Holder Division (collectively, the "Division"). The purchase of the assets was a cash transaction. The terms of the transaction were set forth in an Assets Purchase Agreement dated May 31, 1984 between CMC and Collis Inc. Pursuant to that Agreement, Collis Inc. assumed only certain liabilities of the Division. Expressly excluded from the assumed liabilities, and therefore specifically not assumed by Collis Inc., was any liability for "any claims, actions, suits or proceedings relating to the business of CMC, arising out of events occurring, or, with respect to the manner in which CMC's business was conducted, prior to the Closing Date."

Because the alleged disposal took place from 1972-1975, well before Collis Inc. acquired the assets of the Division, any liability arising from the alleged disposal remains the responsibility of CMC.

Accordingly, we request that the Agency amend the list of Potentially Responsible Parties to include the correct name and address of the former owner/operator of the Clinton facility. The address for that company is Chamberlain Manufacturing Corporation, 845 Larch Avenue, Elmhurst, Illinois 60126.

Please call me if you have questions concerning this response.

Very truly yours,



Nancy M. Kollar

NMK:lp
Enclosure

cc: Allison L. Hiltner, USEPA
Remedial and Enforcement Response Branch

Norman Niedergang, USEPA
Chief, Remedial and Enforcement Response Branch